IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

WEDNESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

P R E S E N T

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

* * *

WRIT PETITION NO : 15160 of 2005

Between :

1) Zareena Parveen, W/o. Late Abdul Lateef,
R/o. 8-2-293/15/1 and 8-2-293/15/1A, Venkateshwaranagar,

Shaikpet Village, Road No. 14, Banjara Hills,
Hyderabad.
2) Syed Nisar Ahmed, S/o. Late Abdul Lateef,
R/o. 8-2-293/15/1 and 8-2-293/15/1A, Venkateshwaranagar, Shaikpet

Village, Road No. 14, Banjara Hills, Hyderabad.
3) Syed Altaf Ahmed, S/o. Late Abdul Lateef,
R/o. 8-2-293/15/1 and 8-2-293/15/1A, Venkateshwaranagar,

Shaikpet Village, Road No. 14, Banjara Hills,
Hyderabad.
4) Syed Ashfaq Ahmed, S/o. Late Abdul Lateef,
R/o. 8-2-293/15/1 and 8-2-293/15/1A, Venkateshwaranagar,

Shaikpet Village, Road No. 14, Banjara Hills,
Hyderabad.
5) Syed Iftaquar Ahmed, S/o. Late Abdul Lateef,
R/o. 8-2-293/15/1 and 8-2-293/15/1A, Venkateshwaranagar,

Shaikpet Village, Road No. 14, Banjara Hills,
Hyderabad.
6) Syed Khadeer Ahmed, S/o. Late Abdul Lateef,
R/o. 8-2-293/15/1 and 8-2-293/15/1A, Venkateshwaranagar,

Shaikpet Village, Road No. 14, Banjara Hills,
Hyderabad.
7) Syed Nazeer Ahmed, S/o. Late Abdul Lateef,
R/o. 8-2-293/15/1 and 8-2-293/15/1A, Venkateshwaranagar,

Shaikpet Village, Road No. 14, Banjara Hills,
Hyderabad.

8) Rukhiya Begum, W/o. Late Sadiq Ali,
R/o. 8-2-293/15/1 and 8-2-293/15/1A, Venkateshwaranagar,

Shaikpet Village, Road No. 14, Banjara Hills,
Hyderabad. ..... PETITIONERS

A N D

1) The State of Andhra Pradesh, rep. by its Principal Secretary to

Government, Revenue Department, Secretariat, Hyderabad.

2) The Special Officer & Competent Authority, Urban Land Ceiling,

Chandravihar, M.J. Road, Hyderabad.
3) Kursheed Ali Khan, S/o. Late Mir Hussain Ali Khan,
R/o. 23-1-365, Hussaini Kothi Alijah Kotla, Hyderabad, ..(contd.2nd page)

4) The Commissioner, Land Administration, Nampally Station Road,

Hyderabad.
5) The Station House Officer, Banjara Hills, Hyderabad.

..... RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of a writ of Mandamus directing the respondents 2 and 5 to protect the possession of the petitioners over an extent of 1450 Sq.Yards in Survey No. 125/79, Shaikpet Village, Road No. 14, Banjara Hills, Hyderabad, with a consequential direction to pass orders on the application of the petitioners for regularization, and to pass such other order or orders as this Hon'ble High Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.V.RAJAGOPAL REDDY
Counsel for the Respondents 1, 2 & 4: GOVT.PLEADER FOR REVENUE
Counsel for the Respondent No.3: None appeared
Counsel for the Respondent No.5: GOVT. PLEADER FOR HOME

The Court made the following at the admission stage**: (**Order follows 3rd page**)**

O R D E R :

This writ petition is filed seeking implementation of the orders passed by the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad, vide Lr.No.E1/455/340/2004 and e1/455/341/2004 CC.No.E1/8886/761, dated 29-4-2005, directing the respondents 2 and 5 to protect the possession of the petitioners over an extent of 1450 sq.yards situate in survey no.125/79 of Shaikpet village, Road No.14, Banjara Hills, Hyderabad and with a consequential direction to pass orders on the application of the petitioners for regularization of the said extent which

is in their occupation and possession with structures thereon.

The case of the petitioners is that admittedly they are in possession of the area with structures paying property taxes for the last more than 30 years but the third respondent by an order dated 02-8-2001 changed the location of the retainable area from western portion to the southern portion but the said order was communicated only to the Mandal Revenue Officer, Shaikpet, Hyderabad. However, the Mandal Revenue Officer, Shaikpet could not take any action but forwarded the said letter to the District Collector, Hyderabad and the said matter is pending before him. Thereafter, the petitioners preferred an appeal before the fourth respondent, which was ultimately dismissed on the ground of non-maintainability. Assailing the order of dismissal of appeal, the petitioners filed WP.No.23246 of 2003 before this court questioning the order of the fourth and second respondents. While admitting WP.No.23246 of 2003, this court passed an order dated 28-11-2003 as hereunder:

> "*Prima facie with once excess land is surrendered and possession was taken in the year 1985, the authorities cannot alter the surrendered proceedings. Statusquo obtaining as on today shall be maintained*".

Against the said order, the third respondent filed WVMP.No.45 of 2004. After hearing both sides, this court passed the following order:

> *"Prima facie, this court finds that the view taken by the Appellate Authority is not correct, Section 33 of the Act is exhaustive in its scope and except the orders passed under Section 11 and Sub-Section (10 of Section 30) of the Act, any other orders under the Act are appealable, it is not as if the second respondent has passed the order dated 02-8-2001 under any other enactment. The matter needs further*

consideration. It also needs to be considered as to whether it was competent for the second respondent to revise the surrender proceedings after eight years without taking into account the rights of the parties that may have accrued in the interregnum.

Hence, the interim order dated 28-11-2003 is made absolute".

The petitioners placed reliance on the decision of the Supreme Court reported in State of AP V/s. V.Venkateswara Rao (dead) LRs., reported in 2004 (10) Decisions Today (SC) 73 as follows:

"*Under sub-section (3) of Section 10, the Competent Authority may by Notification published in the Official Gazette declare that excess vacant land referred to in the Notification published under sub-section (1), with effect from such date as may be specified in the declaration, be deemed to have been acquired by the State Government and upon publication of such declaration such land shall be deemed to have vested absolutely in the State Government free from all encumbrances with effect from the date so specified*".

The petitioners submit that while the matter was pending before the Court, the second respondent passed the following order on 29-4-2005.

"It is submitted that the applicants are in constructive possession of the land for regularization in terms of G.O.Ms.No.455 (Rev. UC) Department dated 29-7-2002. The only problem involved is that the declarant with a view to create unnecessary litigation by the unauthorized change of the sub-division record, in fact when once the final orders are issued, the Special Officer and Competent Authority has no jurisdiction to modify the sketch on his own, in any case, change of sub-division sketch warrant to reviewing his order by himself, which is not permissible under law.

The Government may kindly review the matter as stated

and pass appropriate orders to protect the interest of the petitioners, as they are being harassed by the landholder".

In view of the above, the order passed by the second respondent, the petitioners withdrew WP.No.23246 of 2003 with liberty to file fresh writ petition, if necessary. Another WP.No.4065 of 2004 filed by the petitioners seeking regularization of the land and structures in their possession has come up for hearing before this Court. A counter-affidavit was filed on 12-7-2005 and the counsel for the third respondent requested for adjournment and this court directed the matter to be posted next week.

While things stood thus, the third respondent with the aid of goodas, rowdy-sheeters and other men came along with some police and revenue officials and demolished the structures in the occupation of the petitioners. A complaint was lodged with the fifth respondent, i.e., Station House Officer, Banjara Hills, Hyderabad, at 07:00 p.m. on 12-7-2005. Unless this court intervenes and protects the possession of the petitioners, the petitioners will suffer great hardship and much prejudice will be caused to them.

After hearing Mrs.P.Preethi Reddy, the counsel appearing on behalf of Sri V.Rajagopal Reddy, learned counsel for the petitioners and as well as the learned Govt.Pleader for the respondents, I am not able to appreciate the contentions that were raised before this court. However, after advancing complete arguments again the counsel appearing on behalf of Sri V.Rajagopal Reddy, sought adjournment and requested to post this writ petition in the next week. Having heard the matter *in-*

extenso, in my considered view, there is no cause of action to file this writ petition and when there is no cause of action to file this writ petition, what more is left to reconsider and adjourn the writ petition in the next week. There are no merits in this writ petition, the writ petition fails and liable to be dismissed.

The writ petition is accordingly dismissed at the admission stage. No costs.

JULY 13th, 2005. ----------

I S L. **ELIPE DHARMA RAO, J**.

To

1) The Principal Secretary to Government, Revenue Department,

Secretariat, Hyderabad.

2) The Special Officer & Competent Authority, Urban Land Ceiling,

Chandravihar, M.J. Road, Hyderabad.

3) The Commissioner, Land Administration, Nampally Station Road,

Hyderabad.

4) The Station House Officer, Banjara Hills, Hyderabad.

5) Two CCs to the Govt.Pleader for Revenue, High Court Buildings,

High Court of AP Hyderabad. (OUT)

6) One CC to the Govt.Pleader for Home, High Court Buildings,

High Court of AP Hyderabad. (OUT).

7) One CC to Mr.Sridhar Reddy.

8) Two CD copies.